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**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

ERICKSON PRODUCTIONS, INC.,

*Plaintiff,*

v.

FLATRATE MOVING NETWORK, LLC; and  
FLAT RATE MOVERS, LTD.

*Defendants.*

Civil Case No.

**COMPLAINT AND  
DEMAND FOR JURY TRIAL**

Plaintiff Erickson Productions, Inc. (“Plaintiff”), by and through undersigned counsel and pursuant to the applicable Federal Rules of Civil Procedure and the Local Rules of this Court, hereby demands a trial by jury of all claims and issues so triable, and for its Complaint against Defendants Flatrate Moving Network, LLC and Flat Rate Movers, Ltd. (collectively “Flatrate” or “Defendants”) hereby asserts and alleges as follows:

**NATURE OF THE ACTION AND RELIEF SOUGHT**

1. This is an action for copyright infringement and related claims brought against Flatrate for unauthorized and infringing uses of Plaintiff’s photograph as alleged herein.
2. Plaintiff seeks damages and other relief related to Flatrate’s knowing and willful infringement of Plaintiff’s copyrights in the original work identified herein.

### **THE PARTIES**

3. Jim Erickson is a professional photographer who makes his living by taking and licensing photographs.

4. Plaintiff Erickson Productions, Inc., a California corporation, is the sole distributor and has an exclusive license to Jim Erickson's photographic images.

5. Plaintiff's primary place of business is Petaluma, California.

6. Upon information and belief, Defendant Flat Rate Movers, Ltd. is a limited domestic corporation registered in the state of New York that provides office and residential moving services to customers.

7. Upon information and belief, Defendant Flatrate Moving Network, LLC is a limited liability company registered in the state of New York that provides office and residential moving services to customers.

8. Upon information and belief, Defendants own and/or operate the website located at the URL <http://blog.flatrate.com>.

### **JURISDICTION AND VENUE**

9. Jurisdiction for Plaintiff's claims lies with the United States District Court for the Southern District of New York pursuant to the Copyright Act of 1976, 17 U.S.C. §§ 101, et seq., and 28 U.S.C. § 1338(a) (conferring original jurisdiction over claims arising under any act of Congress relating to copyrights).

10. Venue is proper in this Court under 28 U.S.C. §§ 1391(a) and (b) because Defendants conduct substantial business within the State of New York, infringed Plaintiff's

copyrights within the State of New York, and a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in the State of New York; and under 28 U.S.C. § 1400(a) since the alleged misconduct by Defendants occurred in this District and/or because the Defendants may be found in this District.

11. This Court has personal jurisdiction over Defendants because Defendants' headquarters are located in this District; Defendants conduct substantial business in the State of New York; and Defendants infringed Plaintiff's copyrights in the State of New York as described herein.

### **FACTUAL ALLEGATIONS**

12. Plaintiff owns exclusive rights in the following photograph (the "Subject Photograph"):



13. Defendants copied, displayed, and/or published the Subject Photograph without a license, including on their website at the URL <http://blog.flatrate.com>.

14. Attached as Exhibit 1 is a true and correct copy of screen captures of Defendants' website demonstrating that they copied, published, and/or displayed the Subject Photograph.

15. Defendants intentionally cropped Plaintiff's image in order to cut off Plaintiff's copyright watermark, demonstrating knowing and willful misconduct.

16. Plaintiff presently lacks information necessary to determine the full and complete scope of the infringing uses of his photograph by Defendants. Upon information and belief, a reasonable opportunity for discovery will yield evidence that the infringing uses identified in Exhibit 1 are not the complete scope of the Defendants' uses of the Subject Photograph.

**COUNT I**  
**COPYRIGHT INFRINGEMENT**  
**AGAINST ALL DEFENDANTS**

17. Plaintiff repeats and re-alleges each allegation set forth in all paragraphs above as if set forth fully herein.

18. Plaintiff is the owner and/or exclusive licensor of all copyrights in and to the Subject Photograph.

19. Plaintiff registered the copyright in the Subject Photographs with the U.S. Copyright Office under VA 1-826-433 prior to Defendants' unauthorized use of the photo.

20. Defendants displayed, published, and otherwise used and exploited the Subject Photograph as alleged herein without authorization or license.

21. Defendants' unauthorized use of the Subject Photograph was willful.

22. Plaintiff seeks all damages recoverable under the Copyright Act, including statutory or actual damages, including the Defendants' profits attributable to the infringing use of the Subject Photograph, and the damages suffered as a result of the lack of compensation, credit, and attribution. Plaintiff also seeks all attorneys' fees and any other costs incurred in pursuing and litigating this matter.

**COUNT II**  
**UNAUTHORIZED REMOVAL OF COPYRIGHT MANAGEMENT**  
**INFORMATION AGAINST ALL DEFENDANTS**

23. Plaintiff repeats and re-alleges each allegation set forth above as if set forth fully herein.

24. Defendants, without permission, intentionally removed the accreditation identifying Plaintiff as the owner of the copyrights in the Subject Photograph, thereby removing the copyright management information before displaying and/or publishing it on their website.

25. The conduct by Defendants alleged herein constitutes a violation of Plaintiff's rights under Section 1202 of the Copyright Act.

26. Plaintiff seeks all damages recoverable under the Copyright Act, including statutory or actual damages, related to this separate violation.

27. Plaintiff also seeks all attorneys' fees and any other costs incurred in pursuing and litigating this matter.

**WHEREFORE**, Plaintiff respectfully prays for judgment on its behalf and for the following relief:

1. A permanent injunction against Defendants from copying, displaying, distributing, advertising, promoting, and/or exploiting in any manner the copyrighted work identified herein, and requiring Defendants to deliver to the Court for destruction or other appropriate disposition all relevant materials, including digital files of the Subject Photograph and all copies of the infringing materials described in this complaint that are in the control or possession or custody of Defendants;

2. All allowable damages under the Copyright Act, including but not limited to, statutory or actual damages, including damages incurred as a result of Plaintiff's loss of licensing revenue, Defendants' lack of attribution, and Defendants' profits attributable to infringement;

3. Plaintiff's full costs, including litigation expenses, interest, and any other amounts authorized under law, and attorneys' fees incurred in pursuing and litigating this matter;
4. Any other relief authorized by law, including punitive and/or exemplary damages;  
and
5. For such other and further relief as the Court deems just and proper.

**JURY TRIAL DEMANDED**

Dated March 28, 2017  
New York, New York

Respectfully submitted,



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